

JUDGE NARREIRO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 CV 6864

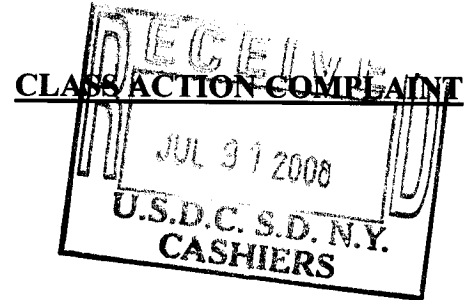
-----X
MICHAEL MURPHY,
on behalf of himself and all others similarly situated,

-against-

Plaintiff,

AFNI, INC.

Defendant
-----X



Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Michael Murphy (hereinafter “Murphy”) is a resident of the State of New York, New York County.

5. Defendant Afni, Inc. is an Illinois Corporation engaged in the business of purchasing and collecting defaulted debt. Defendant regularly attempts to collect debt. Its Registered Agent is the C T Corporation Company, Inc., 111 Eighth Avenue, New York, NY 10011.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter “FRCP”), on behalf of himself and all Southern District of New York consumers who have received debt collection notices and/or letters which stated that Afni, Inc. owns accounts whose original creditor was Verizon New York Inc., which are in violation of the FDCPA, as of the date of plaintiff’s complaint, and their successors in interest (the “Class”). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Afni, Inc.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(10), 1692g(a)(4) and 1692g(a)(5).

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. Defendant sent plaintiff an initial collection letter. Copy of said letter is annexed hereto as Exhibit A.
16. The collection letter stated that “[T]his account has been by our agency for collection. We believe it is in your best interest to resolve this account.” Exhibit A.
17. AFNI, Inc. was notified that the consumer disputed the assertion that Afni, Inc. acquired the Verizon New York Inc. account at issue and demanded that both verification of the debt and the name and address of the original creditor be provided. Exhibit B.
18. Defendant Afni, Inc. responded by letter stating that Afni investigated the dispute and closed the account. Exhibit C.
19. Defendant employs false representations when attempting to collect debt it claims to have purchased despite its inability to verify the debt or ascertain basic information, such as the address of the original creditor.
20. Defendant falsely states that it is in Mr. Murphy’s best interest to resolve this account, when in fact, the account at issue is time barred.
21. As a result of defendant’s abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

22. Each of the above allegations is incorporated herein.

23. Defendant's debt collection attempts of state debt violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(10), 1692g, 1692g(a)(4) and 1692g(a)(5), by falsely and deceptively attempting to collect Verizon New York Inc. debt it cannot evidence, cannot prove it owns nor identify the address of the original creditor, upon dispute.
24. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

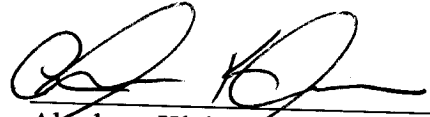
- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages.
- d) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: July 29, 2008

Uniondale, New York



Abraham Kleinman (AK-6300)

KLEINMAN LLC

626 RexCorp Plaza

Uniondale, New York 11556-0626

Telephone (516) 522-2621

Facsimile (888) 522-1692

Afni, Inc.
PO Box 3427
Bloomington, IL 61702-3427
(888)257-1585
www.afnicollections.com

COLLECTION NOTICE

This account has been acquired by our agency for collection. We believe it is in your best interest to resolve this account.

If you have any questions, please contact our office toll free at (888)257-1585 Monday through Friday 7am-9pm CST. For proper credit on your account, please write this number 022775520-02 on your payment.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of the debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgement or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for the purpose. You have the right to inspect your credit. This letter is from a debt collector.

Please see reverse side of this notice for our Privacy Statement and credit card payment options.

To manage your account online, visit us at : www.afnicollections.com

New York City Department of Consumer Affairs License Number #1072175

This account is for a remaining balance from the original creditor for services associated with the previous telephone number listed below.

Please retain this information for your records

Afni, Inc. Account #	Balance Due	Original Creditor	Disconnected Phone #	Date
022775520-02	\$1033.22	Verizon New York Inc.	(718)434-8224	8/3/2007

Detach along perforation and return bottom portion along with payment in the enclosed envelope. Credit card payment options are on the back of notice.



For proper credit, please include your Afni account # listed below on your check



AFNI-08030221553-QWSP-2 1553

Afni, Inc. Account #: 022775520-02
Original Creditor: Verizon New York Inc.
Disconnected Phone #: (718)434-8224
Balance Due: \$1033.22
Date: 8/3/2007
Toll Free: (888)257-1585

Department 555
PO BOX 4115
CONCORD CA 94524



ADDRESS SERVICE REQUESTED

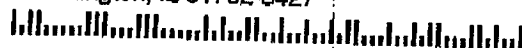
#BWNFTZF #AFN5747723907087#



1 02022775520 791510 103322

Michael Murphy
APT 2J
385 S END AVE
NEW YORK NY 10280-1039

PO Box 3427
Bloomington, IL 61702-3427



SHAKED & POSNER

ATTORNEYS-AT-LAW
255 WEST 36TH STREET
8TH FLOOR
NEW YORK, NEW YORK 10018

TEL (212) 494-0035
FAX (212) 300-2010

DAN SHAKED
MICHAEL C. POSNER*
*ALSO ADMITTED IN NJ

January 10, 2008

Afni, Inc.
Attn: Dispute Department
PO Box 3427
Bloomington, IL 61702-3427

Re: **Michael Murphy**
Your Client: Verizon New York, Inc.
Your Acct. No. 022775520-02

Dear Dispute Department:

Please be advised that I represent Michael Murphy.

Pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692g, you are advised that the validity of this debt is disputed.

Please be further advised that my client disputes the assertion that this disputed Verizon New York Inc. account (# 718-434-8224) was acquired by Afni, Inc.

Please obtain verification of this disputed debt and send verification to Shaked & Posner.

Please send verification that Afni, Inc. acquired this Verizon New York, Inc. account.

Please provide Shaked & Posner the full corporate name of the original creditor.

Please provide Shaked & Posner the address of the original creditor.

Very truly yours,

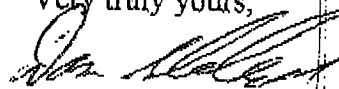

Dan Shaked, Esq.

EXHIBIT C

Case 1:08-cv-06864-VM
P.O. Box 20939
Ferndale, MI 48220



Document 1

Filed 07/31/2008

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afni

404 Brock Drive
P.O. Box 3427
Bloomington, IL 61702-3427

01/25/2008

|||||

MICHAEL MURPHY
DAN SHAKED
255 W 36TH ST FLR 8
NEW YORK, NY 10018-7585

|||||

Afni, Inc. Account #: 022775520-02

Original Creditor: VERIZON NEW YORK INC.
Creditor Account #: 7184348224146
Social Security #: XXX-XX-XXXX

This letter is to inform you that we have investigated your dispute related to the referenced account. Based on the investigation this account has been closed. Afni, Inc. will take no further collection action.

In addition, if this account has been subject to credit reporting, the credit reporting agencies will be directed to remove this account from your credit report. Please note, it may take up to 60 days for the account to be removed from your record at all of the credit reporting agencies. In the interim, you may use this letter as a notice regarding the status of the account.

We apologize for the inconvenience this situation may have caused.

If you have any questions, please contact our office toll free at 1-888-827-6002 Monday - Friday 7am - 9pm CST. This letter is from a debt collector.

Sincerely,

Afni, Inc.

New York City Department of Consumer Affairs license number #1072175